Internal Revenue Service

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Ms. [redacted]

Department of the Treasury

Washington, DC 20224

Person to Contact:
[redacted]
Telephone Number:
(202) 622-4920
Refer Reply To:
CC:ITA:4 – COR-133860-01
Date:
October 5, 2001

Dear Ms. [redacted]:

This responds to your letter of June 13, 2001, in which you asked for information about excluding gain on the sale of your principal residence under § 121 of the Internal Revenue Code. Pursuant to a discussion between you and Ms. Marilyn E. Brookens of this office, we are treating your correspondence as a request for general information rather than as a request for a private letter ruling.

You stated that 15 months ago, you and your [redacted]-year-old son moved [redacted] miles from your original location to a new location in order to [redacted]. However, because your son developed a serious case of [redacted], you and he will shortly be moving back to your original location, where you will [redacted] job. You are planning to sell the residence you have used at the new location and have asked whether you can exclude any of the gain you realize on that sale.

Under § 121(a)(1) a taxpayer may exclude up to $250,000 ($500,000 for certain joint returns) of gain on the sale or exchange of property if the taxpayer owned and used it as the principal residence for at least 2 years during the 5-year period ending on the date of the sale or exchange. The exclusion applies regardless of the age of the taxpayer, but § 121(b)(3) provides generally that the full exclusion can be used only once every 2 years. Because you have owned and used your residence in the new location for less than 2 out of the last 5 years, you are not eligible to claim the maximum exclusion permitted by the statute.

However, § 121(c) provides that a reduced maximum exclusion is available for a taxpayer who sells or exchanges property used as the principal residence but who fails to satisfy the ownership and use requirements described in § 121(a) or the 2-year limitation described in § 121(b)(3). Under these circumstances a reduced maximum exclusion is available to a taxpayer only if the sale or exchange is necessitated by a change in place of employment or health, or to the extent provided in appropriate guidance, unforeseen circumstances. Income Tax Regulations under § 121 are currently being prepared. It has not been decided whether the reduced maximum exclusion is available when the sale or exchange is necessitated by a change in the health of a member of the taxpayer's family.

The reduced maximum exclusion is computed by multiplying the maximum dollar limitation of $250,000 ($500,000 for certain joint filers) by a fraction. The numerator of the fraction may be expressed in either days or months and is the shortest of the period of time that the taxpayer: (a) owned the principal residence; (b) used the principal residence; or (c) had most recently sold a prior principal residence and excluded gain under § 121. The denominator of the fraction is 730 days or 24 months (depending on the measure of time used in the numerator).

To illustrate, assume that T, a single taxpayer, had owned and occupied a principal residence in Los Angeles for 2 years or more. T’s employer transferred her to Chicago. T sold the Los Angeles residence, excluded the gain, and purchased a principal residence in Chicago. Later her employer transferred her to Austin, and T sold the Chicago residence 23 months after the sale of the Los Angeles residence. T owned the Chicago residence for 20 months and occupied it for 18 months. Because T's move to Austin was job related, T will be entitled to exclude up to $187,500 of gain on the sale of the Chicago residence. T's reduced maximum exclusion is derived by multiplying the $250,000 maximum exclusion by a fraction of 18/24 (75 percent). The numerator of the fraction represents the shortest of the three time periods involved: the 18-month period during which T lived in her Chicago residence, the 20-month period during which she owned it, and the 23-month period between the two sales.

We hope the above information will be helpful. If you have further questions, please call Ms. Brookens at (202) 622-4920.

Sincerely,

Robert A. Berkovsky
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)